IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1276 OF 2004

Ramakant Shridhar Deo ...Petitioner

Vs.

Smt.Umabai Gajanan Shaligram & Ors. ...Respondents

Mr.J.S.Deo for the Appellant
Mrs.Usha Purohit for the Respondents.

CORAM: A.S.OKA, J.

DATED: AUGUST 9, 2004.

P.C.:

1. Heard the Counsel appearing for the parties. It is an admitted position that the Respondents have filed a suit for eviction against the Petitioner under the provisions of Bombay Rent Act, 1947. The said suit is in respect of a property described as two rooms admeasuring 300 sq.ft. on the second floor of the property bearing C.T.S.No.1170/25, Shivaji Nagar, Pune with right to use bath room and w.c. along with other occupants-tenants in the property.

2. The case of the Petitioner was that the rented premises in his possession did not consist only of two rooms but three rooms totally admeasuring 750 sq.ft. and also open terrace having an area of 750 sq.ft. In the Second Appeal No.302 of 2004 I have held that the Appellant has failed to establish

that the rented premises consisted of more than two rooms.

3. As stated earlier the Respondents have filed a suit for possession in respect of the rented premises consisting of two rooms. The Appellant has failed to establish on evidence that the area of rented premises is of more than two rooms or that the description of the rented premises given by the Respondents in the written statement is incorrect. The Appellant was the only person who was having knowledge about the exact area in his possession as a tenant. However, for the reasons best known to him he has declined to step into the witness box.

4. The Appellant can seek protection of his possession only to the extent of the premises which were let out to him. Obviously, the Respondents cannot evict the Petitioner from the said premises otherwise than due process of law.

5. The apprehension of the Petitioner that he will be dispossessed otherwise than by due process of law is without any substance as the Respondents have taken recourse to the procedure prescribed by law by filing a suit.

6. In the circumstances, there is no merit in the Petition, same is rejected.

Judge.